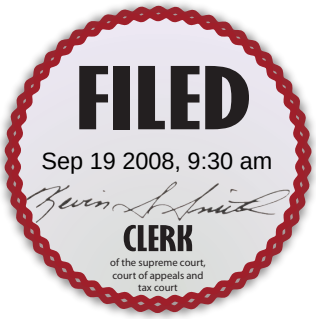

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IN THE
COURT OF APPEALS OF INDIANA

SHANE R. EDWARDS,	)	
	)	
Appellant-Defendant,	)	
	)	
vs.	)	No. 49A02-0801-CR-106
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Plaintiff.	)	

APPEAL FROM THE MARION SUPERIOR COURT
CRIMINAL DIVISION, ROOM 7
The Honorable William Nelson, Judge
Cause No. 49D07-0603-CM-59124

September 19, 2008

MEMORANDUM DECISION – NOT FOR PUBLICATION

RILEY, Judge

STATEMENT OF THE CASE

Appellant-Defendant, Shane R. Edwards (Edwards), appeals his conviction for intimidation, a Class A misdemeanor, Ind. Code § 35-45-2-1.

We affirm.

ISSUE

Edwards raises one issue on appeal, which we restate as follows: Whether the State presented sufficient evidence to support his conviction beyond a reasonable doubt.

FACTS AND PROCEDURAL HISTORY

The facts favorable to the judgment are as follows. On the evening of February 24, 2006, seventeen-year-old A.H. picked up his girlfriend, sixteen-year-old S.R., at her house. They first drove to an Arby's restaurant and then to a bowling alley on West Washington Street in Indianapolis, Indiana. After they parked, A.H. and S.R. began kissing in the front seat of A.H.'s car. S.R.'s pants were pulled down to her thighs.

Edwards, working as a security guard at the bowling alley, noticed A.H.'s car in the parking lot. When he approached the car, Edwards rapped on the driver's side window of A.H.'s car with his flashlight and identified himself as a security guard. He opened the driver's door and ordered A.H. out of the vehicle, while illuminating S.R. with his flashlight. When S.R. asked Edwards if she could pull up her pants, Edwards told her no. Edwards spoke to A.H. for a short time and then directed him to stand by a light post approximately 100 feet away from the car.

Next, Edwards approached the passenger side, opened the door, and addressed S.R. He crouched next to the doorway and asked for her age. Lying, S.R. informed him that she was seventeen. Edwards repeatedly told S.R. "you are a very beautiful girl," and "[y]our mom wouldn't like to get a phone call saying that you are screwing in a bowling alley parking lot. You don't want to go to jail." (Transcript p. 12). As Edwards kept making these statements, S.R. began to feel that he believed that he was being lenient towards her. S.R. recalled, "he told me that for him being such a nice guy and you know not putting me in jail and [A.H.] in jail and not calling my mom that I should pull my stuff down and show him a little bit." (Tr. p. 12). S.R. understood this to mean that she should remove her underwear and allow Edwards to look at her vagina. At first, she refused, but Edwards continue to repeat that because he was "being such a nice guy," S.R. should "show him a little bit." (Tr. p. 13). Eventually, S.R. pulled her underwear down. Edwards stared at her vagina and uttered something sounding "almost like a 'mmmmm' sound." (Tr. p. 13). After about thirty seconds, Edwards ordered her to pull up her pants and warned her that no one else needed to know what had happened. He told A.H. to take S.R. home and not to be "screwing around in any more parking lots." (Tr. p. 35). Later that evening, S.R. told A.H. and another friend what had happened. S.R.'s mother was informed and she called the police.

On April 10, 2006, the State filed an Information charging Edwards with intimidation, a Class A misdemeanor, I.C. § 35-45-2-1. On September 27, 2007, the trial court conducted a bench trial. At the close of the evidence, the trial court took the case under advisement. On

October 2, 2007, the trial court found Edwards guilty as charged and sentenced him to one year executed, with 363 days suspended and probation for ninety days.

Edwards now appeals. Additional facts will be provided as necessary.

DISCUSSION AND DECISION

Edwards argues that the State failed to prove beyond a reasonable doubt that he intimidated S.R. Our standard of review with regard to sufficiency claims is well settled. In reviewing a sufficiency of the evidence claim, this court does not reweigh the evidence or judge the credibility of the witnesses. *Perez v. State*, 872 N.E.2d 208, 212-13 (Ind. Ct. App. 2007), *trans. denied*. We will consider only the evidence most favorable to the verdict and the reasonable inferences drawn therefrom and will affirm if the evidence and those inferences constitute substantial evidence of probative value to support the judgment. *Id*. at 213. A conviction may be based upon circumstantial evidence alone. *Id*. Reversal is appropriate only when reasonable persons would not be able to form inferences as to each material element of the offense. *Id*.

Initially, we note that Edwards devotes the better part of his argument to dissecting the many discrepancies between the testimonies of S.R. and himself. In dealing with the 'he-said-she-said' nature of this case, the trial court already explained that:

> The story couldn't happen both ways as is usually what happens in these cases.
>
> * * *
>
> I watched you both testify. I watched [S.R.] testify. Those were real tears that she was crying and quite frankly [Edwards] I am not convinced that she was making all of this up.

(Tr. pp. 77-78). As we do not judge the credibility of the witnesses or reweigh the evidence on appeal, we decline Edwards' request to revisit the trial court's determination.

We next turn to Edwards' argument, which he addressed briefly, that the evidence is not sufficient to convict him of intimidation. A person commits intimidation, as a Class A misdemeanor, when he "communicates a threat to another person, with the intent: (1) that the other person engage in conduct against the other person's will[.]" I.C. § 35-45-2-1. For purposes of this offense, a threat is defined, in part, as an expression, by words or action, of an intention to: (2) unlawfully subject a person to physical confinement or restraint; . . . (6) expose the person threatened to hatred, contempt, disgrace, or ridicule; . . ." I.C. § 35-45-2-1(c). Thus, in order to convict Edwards of intimidation, the State was required to prove beyond a reasonable doubt that he threatened S.R. with the intent that S.R. engaged in conduct against her will.

Here, S.R. testified that if she refused Edwards' request to "show him [her] vagina," she understood from Edwards' comments that she "would go to jail and that he would call [her] mom and . . . tell her that [she] was screwing in a bowling alley parking lot." (Tr. p. 13). Faced with Edwards' repeated demands, she very reluctantly exposed herself to him.

We find that this evidence provides substantial evidence of probative value that Edwards threatened S.R. with the prospect of jail if she refused to do as he told her to.

CONCLUSION

Based on the foregoing, we conclude that the State presented sufficient evidence to support Edwards' conviction beyond a reasonable doubt.

Affirmed.

BAILEY, J., and BRADFORD, J., concur.